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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,812	12/01/2003	Tsutomu Okada	17291	5537
23389 7590 11/29/2007 SCULLY SCOTT MURPHY & PRESSER, PC 400 GARDEN CITY PLAZA			EXAMINER	
			YABUT, DIANE D	
SUITE 300 GARDEN CITY, NY 11530			ART UNIT	PAPER NUMBER
	•		3734	<u> </u>
			MAIL DATE	DELIVERY MODE
•			11/29/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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		Application No.	Applicant(s)			
Office Action Summary		10/724,812	OKADA, TSUTOMU			
		Examiner	Art Unit			
		Diane Yabut	3734			
Period fo	The MAILING DATE of this communication aport Reply	ppears on the cover sheet w	th the correspondence address			
WHI0 - Exte afte - If N0 - Failt Any	CHEVER IS LONGER, FROM THE MAILING CHEVER IS LONGER, FROM THE MAILING CONTROL OF THE MAILING CONTROL OF THE COMMITTER OF THE PROVISIONS OF 37 CFR 1 TO SIX (6) MONTHS from the mailing date of this communication. Of period for reply is specified above, the maximum statutory period ure to reply within the set or extended period for reply will, by staturely received by the Office later than three months after the mailined patent term adjustment. See 37 CFR 1.704(b).	DATE OF THIS COMMUNION (1.136(a). In no event, however, may a red will apply and will expire SIX (6) MONute, cause the application to become AE	CATION. reply be timely filed ITHS from the mailing date of this communication. BANDONED (35 U.S.C. § 133).			
Status						
1)⊠	Responsive to communication(s) filed on 04	September 2007.				
2a)⊠	This action is FINAL. 2b) This action is non-final.					
3)[☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is					
	closed in accordance with the practice under	Ex parte Quayle, 1935 C.D	. 11, 453 O.G. 213.			
Disposit	ion of Claims					
4)🛛	Claim(s) 1-17 is/are pending in the application	on.				
	4a) Of the above claim(s) is/are withdr	awn from consideration.				
5)	Claim(s) is/are allowed.		,			
6)⊠	Claim(s) <u>1-17</u> is/are rejected.	·				
	Claim(s) is/are objected to.					
8)[Claim(s) are subject to restriction and	or election requirement.				
Applicat	ion Papers					
9)[The specification is objected to by the Examir	ner.				
10)	The drawing(s) filed on is/are: a) ac	ccepted or b) Dobjected to	by the Examiner.			
	Applicant may not request that any objection to th	e drawing(s) be held in abeyar	ice. See 37 CFR 1.85(a).			
_	Replacement drawing sheet(s) including the corre	·	• • • • • • • • • • • • • • • • • • • •			
11)	The oath or declaration is objected to by the B	Examiner. Note the attached	J Office Action or form PTO-152.			
Priority (under 35 U.S.C. § 119					
	Acknowledgment is made of a claim for foreig All b) Some * c) None of:	gn priority under 35 U.S.C. §	119(a)-(d) or (f).			
	1. Certified copies of the priority document	nts have been received.				
	2. Certified copies of the priority document	nts have been received in A	pplication No			
	3. Copies of the certified copies of the pri	iority documents have been	received in this National Stage			
	application from the International Bure					
* (See the attached detailed Office action for a lis	st of the certified copies not	received.			
Attachmer	nt(s) ce of References Cited (PTO-892)	4) [] Into milion	Cummon (PTO 412)			
	ce of References Cited (PTO-892) ce of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s	Summary (PTO-413) s)/Mail Date			
3) 🔲 Infor	mation Disclosure Statement(s) (PTO/SB/08) er No(s)/Mail Date	5) Notice of I	nformal Patent Application 			

U.S. Patent and Trademark Office PTOL-326 (Rev. 08-06)

DETAILED ACTION

This action is in response to applicant's amendment received on 09/04/2007.

The examiner acknowledges the amendments made to the claims.

Claim Rejections - 35 USC § 103

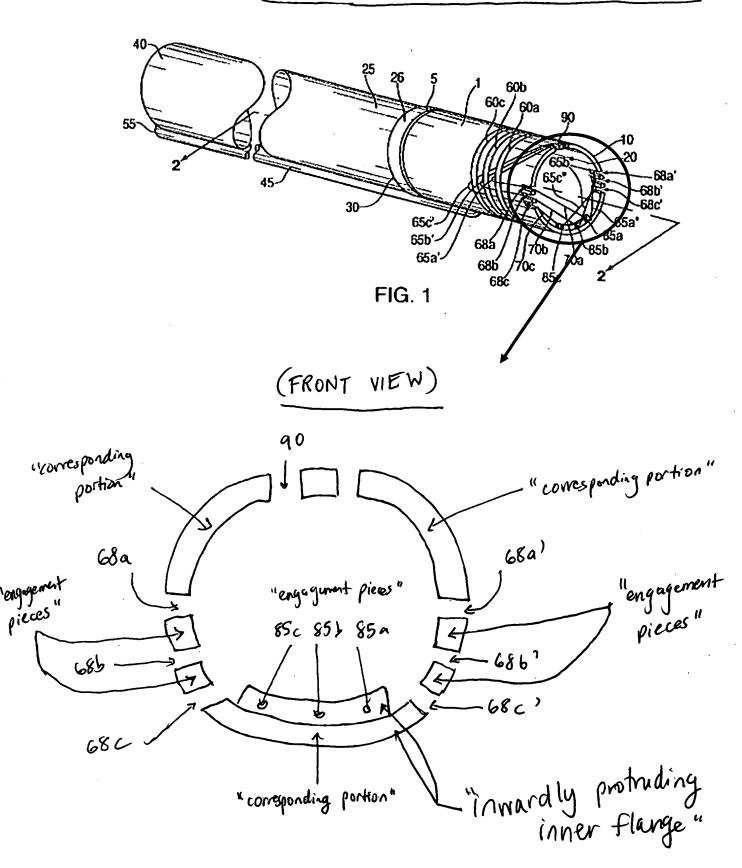
- 1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 2. Claims 1-10, 13-15, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Chu** (U.S. Patent No. **5,968,056**).

Claims 1, 3-6, 9-10, and 13-15: Chu discloses a substantially cylindrical cap 1 including a cylindrical wall and having a circular end portion including a holding mechanism which holds a distal end portion of a snare wire 70 in a loop form in an inner portion of the cylindrical wall, and an attachment portion 5 which attaches the cap to an end portion of an endoscope 25, wherein the holding mechanism has a plurality of engagement pieces (adjacent to 90, 68a-c, 68a'-c') and a plurality of corresponding portions (in between 68a-c and 90, and 90 and 68a'-c') which hold the distal end portion of the snare wire between the engagement piece and the corresponding portion, said plurality of engagement pieces and being respectively distanced from each other in a circumferential direction of the circular end portion, and each of the engagement pieces is sectioned from the corresponding portion by a pair of vertical notches

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Annotated Fig. 1 of Chu (5,968,056)



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90, 68a-c, 68a'-c' which are distanced at the circular end portion in the circumferential direction and formed at a substantially right angle with the circumferential direction - in that they possess a width (Figure 1 (Figures 1 and 4). Chu also discloses the plurality of engagement pieces (adjacent 68a-c and 90, and 90 and 68a'-c') being arranged in the same interval in the circumferential direction and each of the engagement pieces and each of the corresponding portions (in between 68a-c and 90, and 90 and 68a'-c') directly contact opposite sides of the end portion of the snare wire to hold the end portion therebetween (Figure 1).

Chu discloses the inner flange (at distal end of **10**) having a plurality of lateral notches **90**, **68a-c**, **68a'-c'** extending in the circumferential direction, and each <u>said</u> pair of vertical notches extend toward the cylindrical wall from both ends of each lateral notch (Figure 1).

Chu discloses the circular end portion having a plurality of lateral notches extending in the circumferential direction between the inner flange and the cylindrical wall, and each <u>said</u> pair of vertical notches **90**, **68a-c**, **68a'-c'** extend toward the cylindrical wall from both ends of each lateral notch (Figure 1).

Chu discloses the corresponding portion (in between **68a-c** and **90**, and **90** and **68a'-c'**) having a flange provided so as to inwardly protrude from the cylindrical wall, the engagement piece (adjacent **90**, **68a-c**, **68a'-c'**) having separation portions separated from each other by a notch portion formed in the inner flange, and the snare wire is supported between the flange and the separation portions (Figure 1).

Chu discloses the engagement pieces and the corresponding portions in between **68a-c** and **90**, and **90** and **68a'-c'**) being alternately arranged in the circumferential direction of the circular end portion (Figure 1).

Chu discloses the claimed device except for the engagement pieces (adjacent to

90, 68a-c, 68a'-c') being inwardly protruding from the cylindrical wall. However, Chu

discloses engagement pieces (ports 85a-c) being formed in the inner flange of the cylindrical wall, or inwardly protruding from the cylindrical wall so as to inwardly protrude from the end portion of the wall (Figure 1). It would have been obvious to modify the notches 90, 68a-c, 68a'-c' and engagement pieces adjacent to 90, 68a-c, 68a'-c' to also be protruding in order to facilitate a more secure engagement of the distal end portion of the snare wire and it was well known in the art that flanges or lips having coupling portions that extend axially into a distal circular end portion provides an abutment wall that effectively prevents disengagement of a snare wire. Claims 2, 7-8, and 17: Chu discloses the claimed device except for the engagement piece and the corresponding portion each elastically holding the snare wire therebetween, the engagement piece being able to swivel or bend to a side where the circular end portion is positioned with respect to the corresponding portion and the engagement piece holding the snare wire between its outer surface and one surface of the corresponding portion when caused to swivel and the snare wire being pressed against the corresponding portion by an elastic return force of the engagement piece. It would have been obvious to one of ordinary skill in the art at the time of invention to provide an engagement piece and corresponding portion that elastically hold the snare

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wire therebetween and the engagement pieces and corresponding portions being able to swivel, depending on the material used to form the cap, such as an elastic, flexible polymer material well known in the art, in Chu since it was known in the art that flexible polymeric materials used in endoscopic caps are biocompatible and allow for greater movement and manipulation of snare wires.

3. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chu (U.S. Patent No. 5,968,056) in view of Suzuki (U.S. Patent No. 6,068,603) and Smith (U.S. Patent No. 6,517,539).

Chu discloses the claimed device except for a snare sheath into which the Claim 11: snare wire is inserted and a flexible tube which has an opening on an end side, the opening communicating with the inner side of the cap, which is arranged outside the insertion portion of the endoscope when the cap is attached to the endoscope, and is used to insert the snare sheath in which the snare is inserted therethrough, wherein fixing means for fixing the snare sheath so as to be capable of being released is provided in the vicinity of a base end portion of the flexible tube, and a fixture for fixing the snare sheath for preventing the snare sheath to move in an axial direction of the snare sheath against the flexible tube.

Suzuki teaches snare sheath 18 into which the snare wire 16 is inserted and a flexible tube 9 which has an opening on an end side, the opening communicating with the inner side of the cap 10, which is arranged outside the insertion portion of the endoscope when the cap is attached to the endoscope, and is used to insert the snare

sheath in which the snare is inserted therethrough. It would have been obvious to one of ordinary skill in the art at the time of invention to provide a snare sheath and flexible tube, as taught by Suzuki, to Chu since it was known in the art that using a sheath effectively protects and guides the snare wire before deployment.

Smith teaches a <u>fixture 354 for fixing the snare sheath for preventing the snare sheath to move in an axial direction of the snare sheath against the flexible tube (Figure 10; col. 7, lines 10-27)</u>. It would have been obvious to one of ordinary skill in the art at the time of invention to provide a fixture to prevent axial movement of the snare sheath against the flexible tube, as taught by Smith, to Chen in order to allow the snare to move relative of the sheath.

4. Claims 12 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki (U.S. Patent No. 6,068,603) in view of Smith (U.S. Patent No. 6,517,539).

Claims 12 and 16: Suzuki discloses a device for use in combination with an endoscope comprising a substantially cylindrical cap 10, an attachment portion which attaches the cap to an end portion of an endoscope, and a flexible tube 9 whose end opening communicates with the inner side of the cap, which is arranged outside an insertion portion of the endoscope when the cap is attached to the endoscope and used to insert a snare sheath 18 of a high-frequency snare 16 therein, an end portion of a snare wire of the high-frequency snare inserted in the cap through the flexible tube being expanded and arranged in the cap wherein fixing means 23 for fixing the snare sheath of the high-frequency snare so as to be capable of being released is provided in

the vicinity of the base end portion of the flexible tube (Figure 1B, col. 6, line 11 to col. 6 line 29, col. 11, lines 4-7).

Suzuki discloses the claimed device except for a <u>fixture for fixing the snare</u>

<u>sheath being disposed around the snare sheath to inwardly press an outer perifpheral</u>

<u>surface of the snare sheath to fix the snare sheath and preventing the snare sheath to</u>

move in an axial direction of the snare sheath against the flexible tube

Smith teaches a <u>fixture 354</u> for fixing the snare sheath being disposed around the snare sheath to inwardly press an outer peripheral surface of the snare sheath to fix the snare sheath and preventing the snare sheath to move in an axial direction of the snare sheath against the flexible tube (Figure 10; col. 7, lines 10-27). It would have been obvious to one of ordinary skill in the art at the time of invention to provide a fixture to prevent axial movement of the snare sheath against the flexible tube, as taught by Smith, to Suzuki in order to allow the snare to move relative of the sheath.

Response to Arguments

1. Applicant's arguments with respect to claims 1-12 have been considered but are most in view of the new ground(s) of rejection.

Conclusion

2. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Diane Yabut whose telephone number is (571) 272-6831. The examiner can normally be reached on M-F: 9AM-4PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hayes can be reached on (571) 272-4959. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DY

MICHAEL J. HAYES SUPERVISORY PATENT EXAMINER